

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600**

<http://www.montgomerycountymd.gov/content/council/boa/board.asp>

**Case No. A-6092**

**PETITION OF FRANKLIN AND MICHELLE ENNIS**  
(Hearings held September 21 and October 12, 2005)

**OPINION OF THE BOARD**  
(Effective date of Opinion, November 10, 2005)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Sections 59-C-9.74(b)(1) and 59-C-9.72(a). The existing one-story addition requires a twelve (12) foot variance as it is within twenty-eight (28) feet of the front lot line. The required front lot line setback is forty (40) feet.

The subject property is Lot 1, Frye's Addition to Dickerson Subdivision, located at 23120 Mount Ephriam Road, Maryland, 20842, in the RDT Zone (Tax Account No. 1100920747).

Decision of the Board: Requested variance **denied.**

**EVIDENCE PRESENTED TO THE BOARD**

1. The existing 12 x 22.5 foot one-story addition located in the southern front yard requires a variance.
2. The petitioners testified that their house is located on a hill with sloping topography in their side yards, and steeply sloping topography in their rear yard. The petitioners testified that a pool is located at the rear of the house and that the lot's topography and the location of the pool prevent new construction in the side and rear yards.
3. The petitioners testified that the topography on neighboring lots is flat and that the one-story addition would not be out of character with other improvements in the neighborhood because a lot of the homes are sited close to the road. The petitioners' lot is 1.061 acres.

**FINDINGS OF THE BOARD**

Based upon the petitioners' binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards and requirements set forth in Section 59-G-3.1(a) as follows:

*(a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The Board finds that while the topography of the petitioners' lot slopes, any "uniqueness" or "peculiarity" caused by the sloping topography does not constitute "conditions peculiar to a specific parcel of property" of such a severity that the Board may grant the requested variance. The Board notes that new construction can be located elsewhere on the property without the need for a variance. See, Exhibit Nos. 8 [zoning vicinity map] and 11(a) [revised site plan].

The petition does not meet the requirements of Section 59-G-1.3(a) and the Board did not consider the other requirements in that section for the grant of a variance. Accordingly, the requested variance of twelve (12) feet from the required forty (40) foot front lot line setback for the existing one-story addition is denied.

The Board adopted the following Resolution:

Board member Wendell M. Holloway was necessarily absent and did not participate in this Resolution. On a motion by Louise L. Mayer, seconded by Angelo M. Caputo, with Wendell M. Holloway and Allison Ishihara Fultz, Chair, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

---

Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

I do hereby certify that the foregoing  
Opinion was officially entered in the  
Opinion Book of the County Board of  
Appeals this 10th day of November, 2005.

---

Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.